

PREDETERMINATION SETTLEMENT AGREEMENT

CP# 02-14-65439

HUD# 07-14-0268-8

PARTIES TO THE SETTLEMENT AGREEMENT:

RESPONDENT

JERRY'S HOMES, INC.

10430 New York Avenue, Suite C

Urbandale, Iowa 50322-3773

COMPLAINANT

ANGELA WILLIAMS

Commissioner, Iowa Civil Rights Commission

400 East 14th Street

Des Moines, Iowa 50319

and

IOWA CIVIL RIGHTS COMMISSION

400 East 14th Street

Des Moines, Iowa 50319

Complainant's Allegations:

Complainant is a member of the Iowa Civil Rights Commission (ICRC). Complainant alleged Respondents designed and constructed covered multifamily dwelling units in violation of the design and construction accessibility requirements of the Iowa Civil Rights Act (ICRA) and the federal Fair Housing Act (FHA). Complainant alleged Respondents violated the "accessible route into and throughout the unit," "light, switches, thermostats, electrical outlets in accessible locations," and "usable kitchens and bathrooms" requirements (referenced respectively as Requirements 4, 5, and 7) in the ICRA and FHA. Complainant specifically alleged (1) the drop-down from the floor of the interior of Units 1 in Buildings 116 and 117 to the concrete patio landing was measured at 4.37 inches, which is greater than the maximum allowable threshold height of 4 inches; (2) the width clearance between the kitchen islands and opposing counters was measured at 35 and 39 inches, which is less than the minimum of 40 inches required; and (3) the height for the thermostat controls was measured at 59.5 inches, which is higher than the maximum reachable height of 48 inches.

Description of the Subject Property

The subject property, Avondale Trace Condos, is comprised of 8 apartment buildings and common areas, located in Ankeny, Iowa. Certificates of Occupancy were issued for Buildings 116 and 117 in 2013. Each of the two buildings has eight ground-floor units and eight second-floor units. The property does not have an elevator, so only the 16 ground-floor units are covered multifamily dwellings and, therefore, subject to the design and construction accessibility requirements of the ICRA and FHA.

This agreement is limited to the ground-floor units in Buildings 116 and 117, as well as to the surrounding public and common use areas. However, if the deficiencies found in these two buildings and public/common use areas also exist in the other six buildings and public/common use areas, and those deficiencies are not appropriately addressed, then Respondent Jerry's Homes [henceforth referred to as "Jerry's Homes"] may face future enforcement actions by either the United States Department of Housing and Urban Development (HUD) or the United States Department of Justice (DOJ), as these federal agencies have the authority to enforce the FHA for any covered multifamily dwelling built for first occupancy after March 13, 1991.

Respondent's Defenses:

Jerry's Homes acknowledged most of the alleged deficiencies as reported in the complaint. When asked in the ICRC questionnaire what was true or false about the allegations, Jerry's Homes responded, "Most [of the allegations] seem to be true."

Report of Preliminary Findings:

ICRC Investigators inspected three units – two units in Building 116 and one unit in Building 117 – because, as reported by Jerry's Homes and based on the blueprints, these buildings were designed and built in the same way as the other four buildings. All units in both buildings were designed and built according to two specific floor plans. See Appendix B.

After conducting an onsite inspection of three of the ground-floor units – Unit 1 in Building 116 [two bedrooms and two bathrooms], Unit 6 in Building 116 [three bedrooms and two bathrooms], and Unit 1 in Building 117 [two bedrooms and two bathrooms] – as well as the public/common use areas surrounding the two buildings, ICRC Investigators found and reported the following deficiencies:

1) Nine slope measurements were taken at the subject property – six at sidewalks, two at ramps, and one at an access aisle. The running-slope measurements were all greater than 5% and the cross-slope measurements exceeded the 2% maximum allowed by Section 4.3.7 of ANSI 1986 [Requirement 2]. The table below shows the slope type, location, and measurement.

TYPE	LOCATION	MEASUREMENT
RS	Northeast curb ramp for Bldg. 117	9.6%
CS	Northeast curb ramp for Bldg. 117	2.2%
CS	Sidewalk southwest of northeast curb ramp to Bldg. 117	3.8%
RS	Northwest walkway to Bldg. 117	7.9%
RS	Northwest walkway to Bldg. 117	9.2%
RS	Northwest walkway to Bldg. 117	7.4%

RS	Northwest curb ramp for Bldg. 117	7.6%
RS	Northwest curb ramp for Bldg. 117	9.6%
CS	Southeast access aisle for Bldg. 116	5.5%

2) The two curb ramps south of Building 116 and the two curb ramps north of Building 117 protrude into the parking area and have vertical sides adjacent to the ramp with estimated 3-inch heights. According to Section 4.7 of the ADAAG, the sides of the curb ramps need to have flared sides with slopes no greater than 10% because the sides of the ramp are not protected by handrails or guardrails [Requirement 2].

3) There were no detectable warnings in the inspected sidewalk sections adjacent to the vehicular ways listed in the table below.

LOCATIONS FOR REQUIRED DETECTABLE WARNINGS

Southeast curb ramp to Building 116

Southwest curb ramp to Building 116

West curb ramp to Building 116

Curb ramp northwest of Building 116 and north of mailbox kiosk

Curb ramp adjacent to north of mailbox kiosk

Northeast curb ramp to Building 117

Northwest ramp to Building 117

Curb ramp northwest of Building 117 and south of mailbox kiosk

Curb ramp adjacent to south of mailbox kiosk

Curb ramp adjacent to the north of dumpster

Curb ramp adjacent to the south of dumpster

Detectable warnings are required by Sections 4.7.7 and 4.27.2 of ANSI 1986 for the safety of visually-impaired persons [Requirement 2].

4) The parking areas for each subject property building include one space designated as reserved for persons with disabilities. There are no parking spaces designated as "Van-Accessible." The access aisle adjacent to the parking space for persons with disabilities to the south of Building 116 was measured at a width of 63 inches, while the one for Building 117 was measured at 62.5 inches. The width for the access aisles for both buildings will need to be increased to 96 inches, and the spaces will need to be designated as "Van Accessible" to bring them into compliance with Section 4.1.2 of the ADAAG.

5) The height for the keyholes in the top row of mailboxes at each of the mailbox kiosks for Buildings 116 and 117, which includes mailboxes for Units 1 and 9, ground-floor units, was measured at 57.5 inches. There is enough clear floor space in front of the mailboxes for tenants using a wheelchair to make a parallel approach, which allows for a maximum reach height requirement of 54 inches. Therefore, the mailboxes with a height greater than 54 inches are unusable, according to the maximum reach parameters of Section 4.2.6 of ANSI 1986 [Requirement 2].

6) The front doors to Units 1 and 6 in Building 116 and Unit 1 in Building 117 have twist-style knobs as the door-opening hardware. Such knobs are not allowed by Section 4.13.9 of ANSI 1986 [Requirement 3].

7) The threshold height onto the concrete porch for the secondary entrance for Units 1 and 6 in Building 116 is 5 inches. The threshold height onto the interior floor surface for these secondary entrances is 1.5 inches.

Per the requirements of Section 3.10 of the Fair Housing Act Design Manual (FHADM), the maximum allowed interior threshold height is 0.75 inches and the maximum allowed exterior threshold height onto an impervious concrete surface is 4 inches below the interior finished floor surface [Requirement 3]. Taking the requirements for both the interior and exterior thresholds into account, the highest possible allowable exterior-threshold height is 4.75 inches, which only occurs if the interior threshold is at the maximum value of 0.75 inches.

The interior and exterior threshold heights in these units are too high and render the secondary entrance to the porch and the porch itself unusable by a tenant using a wheelchair.

8) The height for the thermostat control was measured at 59.5 inches for Unit 1 in Building 116 and 59.75 inches for Unit 1 in Building 117. The measured heights for these controls exceed the maximum height of 48 inches for either a forward approach or a parallel approach over an obstruction, as required by Section 4.2.5 of ANSI 1986 and Section 5.5 of the FHADM [Requirement 5].

9) The width for the path around the kitchen island for Unit 1 in Building 116 was measured at 39 inches, and the one for Unit 1 in Building 117 was measured at 34.5 inches, both of which are less than 40-inch minimum width required by Section 4.32.5.1 of ANSI 1986 [Requirement 7].

10) The clear floor space outside of the swing of the door in the second bathroom was measured at 33 by 34.5 inches in Unit 1 in Building 116 and Unit 1 in Building 117, which is less than the 30 by 48 inches of clear floor space required by Section 7.39 of the FHADM [Requirement 7].

11) The distance from the midline of the sink to the adjoining wall in the second bathroom for Unit 1 in Building 116 was measured at 15 inches, and 15.5 inches in the second bathroom for Unit 1 in Building 117, which is less than the minimum of 24 inches needed for a parallel approach, as required by Section 4.32.4.3 of ANSI 1986 for bathrooms without removable cabinets [Requirement 7].

12) The height of the towel bars in the bathrooms of all three inspected units was measured at no less than 60 inches, including those which were located directly above the toilet. The maximum allowed height for a tenant reaching over an obstruction is 46 inches, or 48 inches without the obstruction, as outlined in Section 4.2 of ANSI 1986 [Requirement 7].

Jerry's Homes' Response to Report of Preliminary Findings:

Jerry's Homes submitted the following responses to the reported deficiencies:

1) Jerry's Homes will remove and redo sidewalk sections of the walkways to each of the subject property buildings with a running slope greater than 8.33% so that the running slope is no greater than 8.33%. Handrails will be installed for the sections of the walkways to each of the subject property buildings with a running slope between 5% and 8.33%.

In response to the report of the cross-slope deficiency at the sidewalk section southwest of the northeast curb ramp to Building 117, Jerry's Homes stated the slope measured value of 3.8% is the result of that sidewalk rising due to thermal frost, which occurred during the previous winter.

Jerry's Homes responses did not mention a proposed fix for the cross-slope measurement of 5.5% at the southeast access aisle for Building 116.

2) Handrails will be installed at curb ramps that protrude into the parking area to prevent persons who utilize wheelchairs from falling off the sides.

3) Detectable warning pavers will be installed at all accessible ramp locations.

4) "Van-Accessible" signage will be installed at the parking spaces currently reserved for persons with disabilities adjacent to each of the subject property buildings, and the width for the access aisles adjacent to these parking spaces will be increased to 96 inches.

5) The Postmaster at the United States Postal Service (USPS) in Ankeny, Iowa denied Jerry's Homes' request to renumber the mailboxes.

6) The front door twist-style knobs will be replaced with lever-style knobs.

7) Concrete patios will be replaced or additional concrete will be poured to decrease the exterior threshold height at the porch entrance to the units to a height less than the 4-inch maximum. The interior threshold height at the porch entrance will be adjusted to be within the 0.75-inch maximum with the carpet and pad compressed.

8) Thermostats currently at a height greater than the maximum 48-inch allowed will be lowered to bring them into compliance.

- 9) Kitchen islands will be moved to increase the distance between the island and opposing counters to a width of 40 inches or greater.
- 10) The door swings will be reversed in second bathrooms for the two-bedroom units to increase the clear floor space outside of the swing of the door to 30 by 48 inches.
- 11) The second bathroom in the two-bedroom units will be modified so that the cabinet under the bathroom sink is removable and the area underneath the cabinet is finished to bring the bathrooms into compliance.
- 12) Towel-bar heights will be lowered to a maximum height of 46 inches at locations above the toilets and a maximum height of 48 inches at the other locations without obstructions.

Assessment of Deficiencies:

ICRC acknowledges the IBC 2003 is one of the safe harbors accepted by HUD for meeting the accessible design and construction requirements of the FHA, and that it integrates and applies ANSI 1998, which is another one of the safe harbors. HUD issued a Final Review of the IBC 2006, which outlines the way the safe harbors are to be used. The following is an excerpt from this document:

[T]he Department believes that the technical criteria of the 2003 ICC/ANSI A117.1 are consistent with the Act and constitute a safe harbor when used together with the Act, HUD's regulations and the Guidelines for the scoping requirements. Similarly, the technical criteria of the 2003 ICC/ANSI A117.1 constitute a safe harbor when used together with one of the other HUD-recognized safe harbors that provide scoping requirements. ANSI A117.1 is a technical standard on how to make buildings, elements or spaces accessible. Since it lacks specific details on scoping requirements, it is necessary to consult a safe harbor document that provides scoping information.

Therefore, the accessible design and construction technical requirements, as stated in ANSI 1998, will be used to assess compliance with the FHA and ICRA. Similarly, the IBC 2003 will be used to assess compliance with the scoping requirements of the FHA and ICRA.

Following is the assessment of the reported deficiencies, based on the scoping requirements of IBC 2003 and the technical requirements of ANSI 1998:

1) Jerry's Homes maintains it is only responsible for the physical condition of the subject property at the time the construction was completed, but not for the post-construction maintenance. Therefore, Jerry's Homes argues it is not responsible for correcting the cross slope of the sidewalk west of the northwest walkway because it claims the sidewalk had a cross slope of 2% or less at the time initial construction was finished, and only increased to higher than 2% because of the thermal frost after a harsh winter.

However, when asked if the current owner bears responsibility for correcting weather or other post-construction events causing deficiencies, Cheryl Kent, Special Advisor for Disability Policy for HUD, stated, "Yes." In an email to ICRC Investigators, sent July 7, 2014, Ms. Kent stated:

In answer to your question, please see the HUD/DOJ Joint Statement Accessibility (Design and Construction) Requirements for Covered Multifamily Dwellings under the Fair Housing Act, Question and Answer #21, copy attached. The builder, and others typically involved in the design and construction of covered multifamily dwellings, must ensure the building is built in compliance with the law. Once the builder has relinquished legal ownership, then Q&A #21 would apply as it refers to the original and subsequent owners. A builder would, of course, still be liable for any failure to design and construct covered multifamily dwellings in compliance with the law.

Similarly, Amber Fagan, Project Director for Fair Housing Accessibility First, an organization contracted by HUD to provide support in interpreting and applying the accessibility requirements of the FHA, stated the following in an email, sent July 30, 2014, to ICRC Investigators:

This appears to have been addressed by the DOJ/HUD Joint Statement on Design and Construction, released April 2013:

[Quote of Question and Answer #21 found in the cited DOJ/HUD Joint Statement.]

While this question is in the context of "mak[ing] subsequent changes," FHAF's [Fair Housing Accessibility First's] legal specialist believes it is hard to interpret the answer to this question in any way

other than owners of a covered development (original or subsequent) must maintain the features to ensure continued compliance with the FHA requirements. This would include sloping and abrupt level requirements on accessible routes.

As stated in the Joint Statement of HUD and the United States Department of Justice (DOJ), original and future owners of covered multifamily dwellings are responsible for maintaining the property in compliance with the accessibility requirements of the FHA.

Jerry's Homes owned the subject property on June 13, 2013, the date of the test. Therefore, Jerry's Homes is responsible for maintaining the sidewalk slopes within the required parameters regardless of the effects of any environmental factors. Therefore, the sidewalk section southwest of the northeast curb ramp to Building 117, and any other noncompliant sidewalk sections, must be restored to original state, i.e., to meet the slope requirements of the FHA and ICRA.

Otherwise, ICRC concurs with Jerry's Homes' proposal to remove and redo the sidewalk sections of the northwest walkway to Building 117 that exceed 8.33%, to bring the running slope to less than 8.33%. Once the section of the sidewalk just mentioned is replaced, ICRC also concurs with Jerry's Homes' proposal to install handrails along both sides of the northwest walkway, as long as the running slope does not exceed 8.33% for this walkway.

Although not addressed in Jerry's Homes' responses, the southeast access aisle for Building 116 will need to be redone to meet the requirements of Section 502.4 of ANSI 1998, which is a slope of 2% or less in all directions.

- 2) ICRC concurs with Jerry's Homes' proposal to install handrails at curb ramps that protrude into the parking area.
- 3) ICRC concurs with Jerry's Homes' proposal to install detectable warning pavers at all curb cutout (ramp) locations.
- 4) ICRC concurs with Jerry's Homes' proposal to install "Van-Accessible" signage to the existing parking spaces reserved for persons with disabilities. ICRC also concurs with Jerry's Homes proposal to

restripe the lines for the access aisle to increase its width to 96 inches, in compliance with ADAAG requirements.

5) In a letter, dated May 20, 2008, Lynn Grosso, Director of the Office of Enforcement for HUD, informed Maria Infanger, USPS Attorney, that the FHA preempts USPS regulations as they relate to the accessibility of mailboxes. The letter reads:

The Department of Justice has entered into a number of consent decrees which have required the developer to change the height of mailboxes serving covered multifamily dwellings. We have received reports from developers that their efforts to provide mailboxes that comply with the Act have been met with resistance from the U.S. Postal Service because compliance with the prescribed reach ranges [either the 48 or 54-inch height] may result in a greater number of postal units that have to be opened by the mail carrier.

It is our longstanding policy that when there are two sets of requirements which both address accessibility, the developer of the housing subject to both requirements must comply with both, which usually means meeting the stricter standard. In this case, that would mean that any builder or developer of covered multifamily housing would have to comply with the [Fair Housing] Act's requirements even if the Postal Service requirements are more liberal.

As indicated in the above quote, other builders who have installed mailbox kiosks with mailboxes too high have been directed by the DOJ to modify the kiosks to make the required mailboxes reachable, regardless of USPS regulations. Additionally, Don Irwin, Mechanical Engineer for USPS, stated in an email, sent May 14, 2014, to Cheryl Kent from HUD, that there is nothing in USPS regulations that would prevent a builder from installing mailbox kiosks that meet ANSI's reachability requirements. Finally, Cheryl Cavanaugh, Paralegal Specialist for the USPS Law Department – Western Area, stated in an email to ICRC Investigators, sent August 25, 2014, that the builder needs only to obtain authorization for variance from the postmaster to modify or decrease the height to 54 inches or less for the keyholes at mailboxes for first-floor unit tenants. Therefore, Jerry's Homes must adhere to the requirements of the FHA and ICRA for the reachability of mailboxes for Building 116 and Building 117.

6) ICRC concurs with Jerry's Homes' proposal to replace the front door twist-style knobs with lever-style knobs.

- 7) ICRC concurs with Jerry's Homes' proposal, at the porch entrance, to decrease the exterior threshold height to the units exceeding the 4-inch height requirement, and the interior threshold height to units exceeding the 0.75-inch height requirement, with the carpet and pad compressed.
- 8) ICRC concurs with Jerry's Homes' proposal to lower thermostat controls with a height greater than the 48-inch maximum.
- 9) ICRC concurs with Jerry's Homes' proposal to move kitchen islands to increase the distance between each island and the opposing counter to 40 inches or greater.
- 10) ICRC concurs with Jerry's Homes' proposal to reverse the door swing in the second bathroom for the two-bedroom units to increase the clear floor space outside the swing of the door to 30 by 48 inches.
- 11) ICRC concurs with Jerry's Homes' proposal to replace the bathrooms sinks with cabinets that are not removable with cabinets that are removable, which will include finishing the flooring and walls underneath and behind the cabinets.
- 12) ICRC concurs with Jerry's Homes' proposal to move the towel bars in the bathroom to a maximum height of 46 inches at locations above the toilet and 48 inches at the other locations without obstructions.

Predetermination Settlement Agreement

A complaint having been filed by Complainant against Respondents with the ICRC under Iowa Code Chapter 216 and there having been a preliminary inquiry, including an on-site inspection of the subject property, the parties do hereby agree and settle the above-captioned matter in the following extent and manner:

Acknowledgment of Fair Housing Laws

1. Jerry's Homes agrees there shall be no discrimination, harassment, or retaliation of any kind against any person for filing a charge under the ICRA; or because of giving testimony or assistance, or participating in any manner in any investigation, proceeding or hearing under the ICRA; or because of lawful opposition to any practice forbidden under the ICRA.
2. Jerry's Homes agrees to refrain from committing any act of discrimination in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities on the basis of race, color, creed, sex, sexual orientation, gender identity, national origin, religion, disability, or familial status, in violation of the ICRA.
3. Jerry's Homes acknowledges the FHA and ICRA make it unlawful to discriminate in the sale or rental of a dwelling, or otherwise make unavailable or deny a dwelling, to a buyer or renter on the basis of disability. 42 U.S.C. 3604(f)(1); Iowa Code § 216.8A(3)(a).
4. Jerry's Homes acknowledges the FHA and ICRA make it unlawful to discriminate in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling on the basis of disability. 42 U.S.C. 3604(f)(2)(a) and Iowa Code § 216.8A(3)(b)(1)
5. Jerry's Homes acknowledges the FHA and ICRA make it unlawful to refuse to make reasonable accommodations in rules, policies, practices, or services, when the accommodations are necessary to afford person with a disability an equal opportunity to use and enjoy a dwelling. 42 U.S.C. 3604(f)(3)(b); Iowa Code § 216.8A(3)(c)(2).
6. Jerry's Homes acknowledges as owners, developers, builders, or managers of covered multifamily dwellings – ground-floor units in a building consisting of four or more dwelling units built for first occupancy after January 1, 1992 – must build those dwellings in compliance with specific design and construction accessibility requirements, in accordance with the FHA and ICRA. Iowa Code §216.8A(3)(c)(3); 42 U.S.C. §3604(f)(3)(C).

HUD has described these accessibility requirements via regulation and in several publications, including the "Final Fair Housing Accessibility Guidelines." 24 C.F.R. Part 100.200 et seq.; 56 Fed. Reg. 9,472. In the "Guidelines," HUD presented the seven specific requirements as:

1. Accessible building entrance on an accessible route.
2. Accessible and usable public and common areas.
3. Usable doors.
4. Accessible route into and through the covered dwelling unit.
5. Light switches, electrical outlets, thermostats and other environmental controls in accessible locations.
6. Reinforced walls for grab bars.
7. Usable kitchens and bathrooms.

Voluntary and Full Settlement

7. The parties acknowledge this Predetermination Settlement Agreement (hereinafter referred to as the Agreement) is a voluntary and full settlement of the disputed complaint. The parties affirm they have read and fully understand the terms set forth herein. No party has been coerced, intimidated, threatened, or in any way forced to become a party to this Agreement.

8. The parties enter into this Agreement in a good faith effort to amicably resolve existing disputes. The execution of this Agreement is not an admission of any wrongdoing or violation of law. Nor is the execution of this Agreement an admission by Complainant that any claims asserted in her complaint are not fully meritorious.

9. The parties agree the execution of this Agreement may be accomplished by separate counterpart executions of the Agreement. The parties agree the original executed signature pages will be attached to the body of this Agreement to constitute one document.

10. Jerry's Homes agrees the ICRC may review compliance with this Agreement. And as part of such review, Jerry's Homes agrees the ICRC may examine witnesses, collect documents, or require written reports.

Release

11. Complainant hereby waives, releases, and covenants not to sue Respondents with respect to any matters which were, or might have been alleged as charges filed with the ICRC, the Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, or any other anti-discrimination agency, subject to performance by Respondents of the promises and representations contained herein. Complainant agrees any complaint filed with any other anti-discrimination agency, including the Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, which involves the issues in this complaint, shall be closed as Satisfactorily Adjusted.

Disclosure

12. Because, pursuant to Iowa Code §216.15A(2)(d), the ICRC has not determined that disclosure is not necessary to further the purposes of the ICRA relating to unfair or discriminatory practices in housing or real estate, this Agreement is a public record and subject to public disclosure in accordance with Iowa's Public Records Law, Iowa Code Chapter 22. See Iowa Code §22.13.

Required Modifications or Retrofits

13. Jerry's Homes agrees to make the following modifications or retrofits to the subject property:

Accessible and Usable Public and Common Use Areas – Sidewalk Section adjacent to the southwest of the northeast curb ramp to Building 117

(a) The parties agree the cross slope of the sidewalk section adjacent to the southwest of the northeast curb ramp to Building 117, as highlighted in Figure 1A of Appendix A, exceeds the 2% maximum cross-slope established in ANSI A117.1 1998.

(b) Jerry's Homes agrees it will remove and replace the existing sidewalk section described above to a measurement at or below a running slope of 5% and at or below a cross slope of 2%, in compliance with the FHA and ICRA, and as required by ANSI A117.1 1998.

Accessible and Usable Public and Common Use Areas – Northwest Walkway to Building 117

(a) The parties agree the running slope of the middle sidewalk section at the northwest walkway to Building 117, as highlighted in Figure 1B of Appendix A, exceeds the 8.33% maximum running-slope as established by ANSI A117.1 1998.

(b) Jerry's Homes agrees it will remove and replace the existing sidewalk section described above, highlighted in Figure 1B of Appendix A, found to exceed the maximum allowed running slope of 8.33%, to a measurement at or below a running slope of 8.33%, and a cross slope of 2% or less, and including the installation of handrails described in below Paragraph "(c)," in compliance with the FHA and ICRA, and as required by ANSI A117.1 1998.

(c) After the modification described in above Paragraph "(b)" is completed, and Jerry's Homes has re-inspected the northwest walkway to verify it has a running slope between 5% and 8.33%, Jerry's Homes agrees it will install a handrail on each side of this sidewalk section.

Jerry's Homes agrees it will inspect the other three walkways, as highlighted in Figure 1B of Appendix A. If the running slopes for the other walkways exceed the maximum limits stated above, Jerry's Homes agrees it will perform the same modifications as at the northwest walkway to Building 117.

Accessible and Usable Public and Common Use Areas – Southeast access aisle for Building 116

(a) The parties agree the cross slope of the southeast access aisle, as shown in Figure 1C of Appendix A, exceeds the 2% maximum cross slope established in ANSI A117.1 1998.

(b) Jerry's Homes agrees it will remove and replace the existing southeast access aisle for Building 116, to a measurement at or below a slope of 2% in all directions, in compliance with the FHA and ICRA, as required in ANSI A117.1 1998.

Jerry's Homes agrees it will inspect the access aisle for Building 117. If the running slope or cross-slope values exceed the maximum slopes allowed, Jerry's Homes agrees it will perform the same modification as at the access aisle for Building 116.

Accessible and Usable Public and Common Use Areas – North curb ramps for Building 117

(a) The parties agree (1) the cross slope of the northeast curb ramp to Building 117, as shown in Figure 1C of Appendix A, exceeds the 2% maximum cross slope established in ANSI A117.1 1998; (2) the running slope for both of the curb ramps adjacent to the north of Building 117, as shown in Figure 1C of Appendix A, exceed the 8.33% maximum slope for a curb ramp established in ANSI A117.1 1998; (3) the horizontal projection of both ramps towards Building 117 is greater than 72 inches; and (4) these curb ramps protrude into the parking areas and have vertical sides adjacent to the ramp with estimated heights of at least three inches, which have no handrails.

(b) Jerry's Homes agrees it will remove and replace curb ramps north to Building 117, to a measurement at or below a running slope of 8.33%, and a cross slope of 2% or less, and including the installation of handrails described in below Paragraph "(c)," in compliance with the FHA and ICRA, and as required by ANSI A117.1 1998.

(c) After the modification described in above Paragraph "(b)" is completed, and Jerry's Homes has re-inspected curb ramps to verify it has a running slope between 5% and 8.33%, Jerry's Homes agrees it will install a handrail on each side of both curb ramps.

Jerry's Homes agrees it will inspect the curb ramps for Building 116. If the running slope or cross-slope values exceed the maximum slopes allowed, Jerry's Homes agrees it will perform the same modification as at the access aisle for Building 117.

Accessible and Usable Public and Common Use Areas – Detectable Warnings

(a) Parties agree there are no detectable warnings at the ramp locations along the sidewalk paths adjacent to all five of the subject property buildings, as required in Section 4.29 of the ADAAG.

(b) Jerry's Homes agrees to install detectable warning pavers in the ramps at Building 116 and Building 117, as required by the ADAAG.

Accessible and Usable Public and Common Use Areas – "Van Accessible" signage and access aisle

(a) The parties agree the access aisles adjacent to the parking spaces reserved for persons with disabilities do not have signage indicating the parking spaces are "Van Accessible," as required in Section 4.6.4 of the ADAAG; and the width for the access aisles is less than the minimum of 96 inches, as required in Section 4.1.2 of the ADAAG for access aisles adjacent to "Van Accessible" parking spaces.

(b) Jerry's Homes agrees to install additional signage to the existing signage at the parking spaces reserved for persons with disabilities adjacent to Building 116 and Building 117, which indicates the spaces are designated as "Van Accessible," as required in the ADAAG.; and to restripe the access aisle markings, such that the width of the access aisles is no less than the minimum of 96 inches, as required in the ADAAG. The current signage for all parking spaces reserved for persons with disabilities will be kept, which includes the International Symbol of Accessibility as described in the ADAAG, and is available online at: <http://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-ada-standards/background/adaag#4.30.7>.

Accessible and Usable Public and Common Use Areas – Mailboxes

(a) The parties agree the mailboxes for tenants in ground-floor Units 1 and 9 for Building 116 and Building 117 exceed the maximum reach range of 54 inches for a person who requires the use of a wheelchair to make a parallel approach, as specified in ANSI A117.1 1998.

(b) Jerry's Homes agrees it will rearrange the mailbox numbers at each mailbox kiosk for Building 116 and Building 117 to provide all ground-floor tenants with mailboxes that do not exceed the height of 54 inches, as required by ANSI A117.1 1998.

Usable Doors – Front Door Hardware

(a) The parties agree the door-opening hardware for the front doors to Units 1 and 6 in Building 116 and Unit 1 in Building 117 have twist-style knobs in violation of ANSI A117.1 1998.

(b) Jerry's Homes agrees it will replace the twist-style knobs in all front doors of ground-floor units in each of Building 116 and Building 117 with lever-style knobs, which do not require tight grasping or twisting, as required by ANSI A117.1 1998.

Usable Doors – Threshold for Secondary Door

(a) The parties agree the exterior threshold height onto the concrete porch for Units 1 and 6 in Building 116 exceeds four inches below the interior finished floor surface, and the interior threshold height onto the finished surface exceeds 0.75 inches, which are the maximum heights allowed for interior and exterior thresholds onto impervious exterior surfaces by FHADM.

(b) Jerry's Homes agrees it will reduce the interior and exterior threshold heights at the porch entrance for all ground units at the subject property that exceed the above-outlined requirements, as required by FHADM.

Light Switches, Electrical Outlets, Thermostats, and Other Environmental Controls in

Accessible Locations - Thermostats

(a) The parties agree the height for the thermostat controls in Unit 1 in Building 116 and Unit 1 in Building 117 exceed the maximum height of 48 inches, as allowed by FHADM.

(b) Jerry's Homes agrees it will lower the thermostat controls in all ground-floor units at the subject property to a height no greater than 48 inches, as required by FHADM.

Usable Kitchens – Kitchen Islands

(a) The parties agree the clearance space between the kitchen island and the opposing base cabinets, countertops, appliances, and walls in Unit 1 in Building 116 and in Unit 1 in Building 117, both two-bedroom units, is less than the 40-inch minimum clearance space required by ANSI A117.1 1998.

(b) Jerry's Homes agrees to move the kitchen island in the two-bedroom ground-floor units the necessary distance to comply with the minimum allowable clearance space of 40 inches, as required in ANSI A117.1 1998.

Usable bathrooms – Clear floor space outside of swing of door

(a) The parties agree clear floor space outside the swing of the door in the second bathroom for Unit 1 in Building 116 and Unit 1 in Building 117, both of which are two-bedroom units, is less than the 30 by 48-inch minimum dimensions, as required in Section 7.39 of the FHADM.

(b) Jerry's Homes agrees it will reinstall the doors for the second bathroom in the ground-floor two-bedroom units in Building 116 and Building 117, to reverse the swing of the door, such that it will swing away from the bathroom, and create the minimum clear floor space dimensions of 30 by 48 inches, as required by the FHADM.

Usable bathrooms – Bathroom Sinks

(c) The parties agree (1) the flooring underneath the bathroom sink cabinets in the second bathroom of Unit 1 in Building 116 and Unit 1 in Building 117, both of which are two-bedroom units, is not finished, which is a requirement for cabinets to be deemed removable, and does not meet the requirement for a forward approach by a person utilizing a wheelchair, as required by ANSI A117. 1998; and (2) the midline of the sink in this bathroom is less than the minimum 24 inches for a parallel approach by a person who requires the use of a wheelchair, as required by ANSI A117. 1998.

(d) Jerry's Homes agrees it will remove and replace the existing vanity and finish the flooring in the second bathroom of Unit 1 in Building 116 and Unit 1 in Building 117, and in the remaining two-bedroom ground-floor units for these two buildings to allow for a forward approach by a person who requires the use of a wheelchair. If the vanity needs to be removed, the knee-space underneath the

bathroom sink will have the minimum dimensions required by ANSI A117.1 1998. See Figure 1C in Appendix A.

Usable bathrooms – Bathroom Towel Bars

(a) The parties agree the height of the towel bars in all bathrooms in the ground-floor units at the subject property exceed the reachable height of 46 inches for those located above the toilet and 48 inches for towel bars without an obstruction, as outlined in ANSI A117.1 1998.

(b) Jerry's Homes agrees it will adjust the height of the bathroom towel racks in all ground-floor units at the subject property as outlined above, as required by ANSI A117.1 1998.

Required Timelines for Completion of Modifications or Retrofits

14. Jerry's Homes agrees, for any tenant who makes a reasonable accommodation request that concerns one or more of the above-required modifications or retrofits, it will allow the tenant to make the decision whether the above-required modification or retrofit is made during his/her tenancy. Jerry's Homes agrees those tenants who make that decision will be allowed to remain in their units while the renovations are being completed so long as their continued stay is safe and does not unduly disrupt the renovation work. If their continued stay is not safe or unduly interferes with renovation work, Jerry's Homes agrees to move the affected tenants to another suitable unit on a temporary basis until the unit is made safe or the renovation work is completed. Jerry's Homes agrees to pay all costs generated by such move.

15. Jerry's Homes agrees to make the above-required modifications or retrofits to the common use and public areas of the subject property – sidewalk section adjacent to the southwest of the northeast curb ramp to Building 117, northwest walkway to Building 117, southeast access aisle to Building 116, north curb ramps for Building 117, detectable warnings, "Van-Accessible signage and access aisle, and mailboxes – within 120 days of receiving a Closing Letter from the ICRC.

16. Jerry's Homes agrees to make the above-required modifications or retrofits to the ground-floor units in the subject two buildings as each of the units becomes vacant. Jerry's Homes agrees to make the required modifications or retrofits before the unit is rented again.

Mandatory Reporting Requirements

17. Jerry's Homes agrees to notify the Commission when it has completed the required modifications or retrofits for each and every subject unit and common use area. Such notification shall be made within 30 days of completion. These required notifications to the Commission will continue until all required modifications or retrofits have been completed in all 16 units, listed in attached Appendix B.

18. Jerry's Homes agrees, as the required modifications or retrofits are made to a particular unit or common area, the Commission may then inspect such unit or common area, and then report the results of its inspection, addressing any outstanding deficiencies, in writing and within 30 days of the inspection, to Jerry's Homes.

If the inspection indicates outstanding deficiencies, Jerry's Homes shall correct all such deficiencies within a reasonable period of time as determined by the Commission, and shall pay a reasonable fee for another inspection by Commission staff or pay for an inspection by a third party inspector, approved by the Commission.

19. The sale or transfer of ownership, in whole or in part, by any owner of the subject property will not affect any obligation to modify or retrofit the subject property as specified in this Agreement, unless Jerry's Homes have obtained, in writing, as a condition of sale or transfer, the purchaser or transferee's commitment to be bound by the terms of this agreement to complete all required modifications or retrofits as specified in this Agreement.

20. Within 30 days of receiving a closing letter from the Commission, Jerry's Homes agrees to provide a written statement to the Commission, to the attention of Don Grove, Supervisor of Housing Investigations, that specifies how each of the above-required modifications or retrofits will be corrected.

21. Jerry's Homes agrees it will inspect all "covered multifamily dwellings," as defined by Iowa Code §§216.2(4) and 216.8A(3)(c)(3), that it developed, built, or currently owns or manages – individually or collectively – within the state of Iowa, with a first Certificate of Occupancy issued on or after January 2, 2014, for compliance with the design and construction accessibility requirements in the ICRA and FHA.

Jerry's Homes agrees, for each of those covered multifamily dwellings, it will report to the Commission: (1) the property name and address, (2) the developer and builder's name(s) and address(es), (3) the owner and manager's name(s) and address(es), and (4) the date when the first dwelling unit was rented or sold. Jerry's Homes agrees to provide that report within 30 days of receiving a Closing Letter from the Commission.

Jerry's Homes also agrees, for each of those covered multifamily dwellings, it will report to the Commission within six (6) months of receiving a Closing Letter from the Commission whether its inspection(s) uncovered any deficiencies or violations of the FHA or ICRA (ANSI A117.1 1998). If its inspection(s) uncovered any deficiencies or violations, Jerry's Homes agrees to report and describe each deficiency or violation in detail, and propose a plan with timelines to make all necessary modifications or retrofits.

[Please go to next page for the signature page]

Jerry's Homes, Inc.

Date

RESPONDENT

Angela Williams

Date

COMPLAINANT

Beth Townsend, Director

Date

IOWA CIVIL RIGHTS COMMISSION